

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Precision Plating Company  
Akron, Ohio,

**Respondent.**

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) Docket No. **CAA-5- 2000-011**  
)

) **Proceeding to Assess an Administrative**  
) **Penalty under Section 113(d) of the**  
) **Clean Air Act, 42 U.S.C. § 7413(d)**  
)  
)

**Consent Agreement and Final Order**

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brings this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On November 26, 1999, U.S. EPA issued a Finding of Violation and Notice of Violation against Precision Plating Company, for violations of Section 112 of the Act, 42 U.S.C. § 7412, the National Emission Standards for Hazardous Air Pollutants for Chromium Emissions from Hard and Decorative Electroplating and Chromium Anodizing Tanks (chrome plating NESHAP), 40 C.F.R. § 63.343(b)(1), and the operating permit requirements of the Ohio state implementation plan, Ohio Admin. Code (OAC) 3745-35-02(A), at its facility in Akron, Ohio.

3. During a January 25, 2000, conference held pursuant to Section 113 of the Act, 42 U.S.C. § 7413, the parties initiated settlement discussions. Ongoing negotiations culminated on May 22, 2000, when the parties agreed to settle Precision Plating's liability in this matter prior to U.S. EPA filing a complaint.

4. This consent agreement and final order (CAFO) is being filed in lieu of a complaint; therefore, Precision Plating waives its right to file an answer and request a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

#### **Jurisdiction**

5. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the chrome plating NESHAP, 40 C.F.R. Part 63, Subpart N (§§ 63.340 - 63.347).

6. Pursuant to 40 C.F.R. § 63.340(a), the chrome plating NESHAP applies to each chromium electroplating or chromium anodizing tank at facilities performing, among other things, hard chromium electroplating.

7. The chrome plating NESHAP, at 40 C.F.R. § 63.343(b)(1), requires the owner or operator of an existing hard chromium electroplating tank to conduct an initial performance test as required under 40 C.F.R. § 63.7.

8. 40 C.F.R. § 63.7(a)(2)(iii) states that the owner or operator of an affected source shall perform the performance testing within 180 days after the compliance date specified in the applicable subpart for an existing source subject to an emission standard.

9. Pursuant to 40 C.F.R. § 63.343(a)(1)(ii), the compliance date for the owner or operator of an existing hard chromium electroplating tank is no later than two years after January 25, 1995; *i.e.*, January 25, 1997.

10. Pursuant to 40 C.F.R. §§ 63.7(a)(2)(iii) and § 63.343(a)(1)(ii), the owner or operator of an existing hard chromium electroplating tank is required to conduct an initial performance test no later than July 24, 1997.

11. Pursuant to Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), whenever the Administrator finds that any person has violated a NESHAP, the Administrator may issue an administrative penalty order.

12. On June 10, 1982, U.S. EPA approved permit to operate provisions at OAC 3745-35 as part of the federally enforceable Ohio state implementation plan. 47 Fed. Reg. 25144 (June 10, 1982).

13. The permit to operate provisions of the Ohio state implementation plan became effective on July 12, 1982. 47 Fed. Reg. 25144 (June 10, 1982).

14. OAC 3745-35-02(A) states that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental Protection Agency.

15. Pursuant to Section 113(d)(1)(A), 42 U.S.C. § 7413(d)(1)(A), whenever the Administrator finds that any person has violated any requirement or prohibition of an applicable implementation plan, the Administrator may issue an administrative penalty order.

16. The Administrator may assess a civil penalty of up to \$25,000 per day of violation, up to a total of \$200,000, for Clean Air Act violations that occurred prior to January 31, 1997, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1). The Debt Collections Improvements Act of 1996 increases the statutory maximum penalty to \$27,500 per day of violation, up to a total of \$220,000, for Clean Air Act violations that occurred on or after January 31, 1997. 31 U.S.C. § 3701 and 40 C.F.R. Part 19.

17. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to bring an administrative action to matters where the first alleged date of violation

occurred no more than 12 months prior to initiation of the action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Attorney General of the United States and the Administrator, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

### **Facts and Legal Conclusions**

19. The Respondent is Precision Plating Company, which is and was at all times relevant to this action a corporation incorporated under the laws of Ohio, located at 918 Hazel Street, Akron, Ohio 44305.

20. Precision Plating owns and operates two hard chromium electroplating tanks (tank #1 and tank #2) at the facility.

21. Precision Plating brought tank #1 and tank #2 on-line in 1971.

22. Precision Plating conducted the initial performance test on tank #1 on May 3, 1999.

23. Precision Plating conducted the initial performance test for tank #2 on July 19, 1999.

24. Precision Plating's failure to conduct an initial performance test on tank #1 and tank #2 no later than July 24, 1997, constitutes a violation of 40 C.F.R. § 63.343(b)(1).

25. Precision Plating applied for a permit to operate tank #1 and tank #2 on December 9, 1998.

26. Precision Plating's failure to apply for a valid permit to operate for tank #1 and tank #2 until December 9, 1998 constitutes a violation of OAC 3745-35-02.

### **Stipulations**

27. Precision Plating Company admits the jurisdictional allegations in paragraphs 5 through 18 above, and neither admits nor denies the factual allegations in paragraphs 19 through 26 above.

28. Precision Plating Company waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

29. Precision Plating Company certifies that it now is complying fully with Section 112 of the Act, 42 U.S.C. § 7412, 40 C.F.R. § 63.343(b)(1), and OAC 3745-35-02(A).

30. The parties consent to the terms of this CAFO.

31. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

### **Civil Penalty**

32. In consideration of the size of Precision Plating, the economic impact of the penalty on Precision Plating, Precision Plating's compliance history and good faith efforts to comply, the duration of the violations, the seriousness of the violations, and other factors as justice may require, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$30,000.

33. Precision Plating agrees to pay the United States of America a civil penalty of \$30,000 in three installments, as described in Attachment A. Payment of the first \$10,000 installment must be made within 30 days of the execution of the attached Final Order. A second installment of \$10,000, plus interest accruing at a rate of five percent per annum on the balance due, must be made within **one year** of the date of the first payment. The third and final \$10,000 installment payment, plus interest accruing at a rate of five percent per annum on the balance

due, must be made within **one year** of the date of the second installment payment. All three installments must be paid by certified or cashier's check, payable to the "Treasurer, United States of America."

34. Precision Plating must send the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

35. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Ann Coyle, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3509

36. This civil penalty is not deductible for federal tax purposes.

37. If Precision Plating does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

38. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Precision Plating Company will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Precision Plating Company will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

39. There is no charge for pre-payment of the penalty.

#### **General Provisions**

40. This CAFO settles U.S. EPA's claims for civil penalties for the violations described above.

41. Nothing in this CAFO restricts U.S. EPA's authority to seek Precision Plating's compliance with the Act and other applicable laws and regulations.

42. This CAFO does not affect Precision Plating's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

43. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Precision Plating Company's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

44. The terms of this CAFO bind Precision Plating Company, its successors, and assigns.

45. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

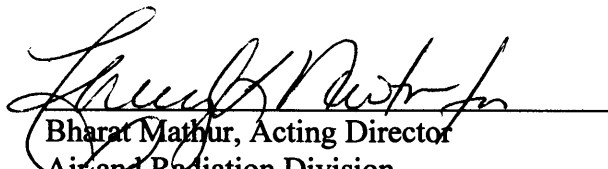
46. Each party agrees to bear its own costs and fees in this action.

47. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection Agency,  
Complainant**

Date: 6-29-00

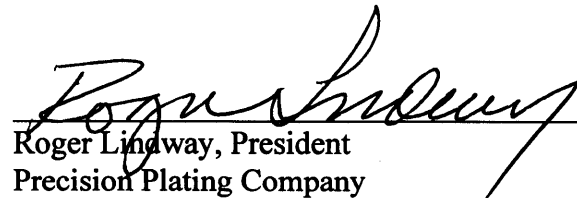
By:

  
Bharat Mathur, Acting Director  
Air and Radiation Division  
U.S. EPA, Region 5 (A-18J)

**Precision Plating Company, Respondent**

Date: 6-19-00

By:

  
Roger Lindway, President  
Precision Plating Company





**CONSENT AGREEMENT AND FINAL ORDER**

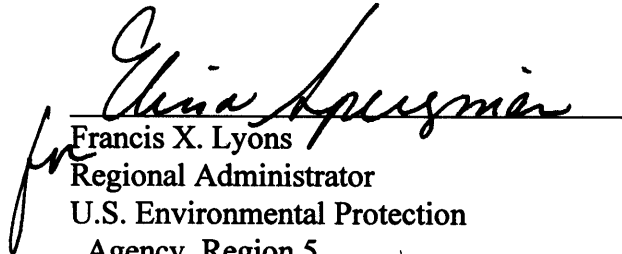
**Precision Plating Company**

**Docket No. CAA-5- 2000 -0 11**

**Final Order**

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 7/3/2000

*for*   
Francis X. Lyons  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

## ATTACHMENT A

### Payment Schedule

Principle Sum - \$30,000

Interest - 5% per annum

<u>Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Payment</u>	<u>Remaining Amount</u>
__/__/00	\$ 30,000	\$0	\$10,000	\$20,000
__/__/01	\$20,000	\$1,000	\$11,000	\$10,000
__/__/02	\$ 10,000	\$500	\$10,500	\$0

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that a Consent Agreement and Final Order was sent by Certified Mail, Return Receipt Requested, to:

Roger Lindway, President  
Precision Plating Company  
918 Hazel Street  
Akron, Ohio 44305

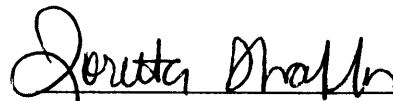
I also certify that copies of the Consent Agreement and Final Order were sent by first class mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

and

Lynn Malcolm, Administrator  
Akron Regional Air Quality Management District  
146 South High Street  
Room 904  
Akron, Ohio 44308

on the 11 day of JUL, 2000.



Loretta Shaffer, Secretary  
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70993400000096014224

CAA-5- 2000-011

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